

The E-ZPass Plan, which was initiated in June 1990, calls for eventual implementation of electronic toll collection at all of the toll river crossings to New York City, at other major toll portals

1. Teletrac is wrong in asserting that the licensing of narrowband or non-pulse-ranging wideband systems in the 904-912 and 918-926 MHz bands violates current interim AVM rules, and it is wrong in suggesting that the FCC's

more than 1 MHz "may be authorized" in the 903-904 or 926-927 MHz bands, there is nothing in the text of the rules or the Report and

Order which requires the exclusion of other systems from these

request for alternative licensing schemes, including "a method wherein wide-band pulse ranging systems can effectively co-exist with narrow-band systems," acknowledges both an uncertainty and a need for more information about whether its tentative proposal is a necessary or reasonable one to adopt. NPRM, p.2505, paragraphs 16-17. It certainly makes no sense to treat the proposal as more than "tentative" when the FCC itself optimistically observes that "[t]he technology being used in AVM systems today is quite advanced and we would expect that licensees dedicated to operating cooperatively in a shared environment would be able to propose a method by which productive co-channel operations can be achieved." Id. at paragraph 17.

Insofar as Teletrac's Freeze Request is based on the proposition that "exclusive" allocations are required, it has no foundation in the current interim rules; insofar as it is based on the proposition that such allocations will likely be required upon completion of the current FCC proceeding, it is premature.

2. Teletrac has not provided any credible evidence to support its claims that the continued licensing of AVM systems in these bands prior to the completion of the AVM rulemaking proceeding will thwart the development of AVM services by deterring further investment in them and undermining the FCC's rulemaking efforts.

Equally without merit are Teletrac's arguments regarding the dire consequences that it claims will necessarily result from any further AVM licensing of systems (other than its own) in the 904-912 and 918-926 MHz bands.

Although Teletrac worries that continued licensing will limit

the FCC's "flexibility" in the current AVM rulemaking, it is Teletrac's own efforts to lock the FCC into the "tentative" separation proposal that raise the greatest risk of eliminating FCC options in the proceeding.

A freeze on licensing is not necessary to ensure that the FCC can adopt an allocation plan and licensing scheme which will further the public interest in the development of AVM services. Existing FCC authority permits the modification of licenses of systems authorized under the current rules, and would allow the FCC to order other operational changes, including migration to other spectrum, if such actions prove to be necessary.

But a freeze could deprive the FCC of information which is directly relevant to several of the issues that are central to the rulemaking. For example, if the Freeze Request is granted, the FCC would have less information to ascertain the extent to which proponents of wideband and narrowband AVM operations are continuing to invest in and develop technologies for deployment in the current shared spectrum environment. It could also be deprived of additional opportunities to explore case studies of interference and accomodation that might otherwise arise.

Assuming arguendo that the continued licensing of narrowband or non-pulse-ranging wideband systems will cause interference to Teletrac's systems, it is difficult to understand how or why such problems -- which could presumably be addressed under current rules and procedures for reasonable accomodation -- would broadly hinder

the development of AVM services. While Teletrac is not alone in having to face regulatory uncertainties because of the pending rulemaking proceeding, it has no basis for assuming that the fears and frustrations it may be experiencing as a result of its choice of AVM technologies are shared by other providers and users of AVM services. Certainly the fact that Teletrac is wary of an onslaught of further licensing applications weighs against its claim that uncertainty caused by the pending rulemaking is threatening to deter further investments in AVM services and technologies.

3. Granting Teletrac's Freeze Request could adversely affect the Interagency Group's plan for implementation of its E-ZPass program, if it interferes with planned testing of competing vendors' technologies.

As indicated above, the Interagency Group has concluded that Teletrac has failed to provide credible grounds for its Freeze Request. Moreover, the Interagency Group is concerned that its own efforts to implement the E-ZPass Plan may be adversely affected by Teletrac's proposed freeze.

In July, the Interagency Group will conduct a critical second phase of testing with competing vendors of AVM technologies who are seeking the selection of their products to facilitate the Plan.

At present the Interagency Group is uncertain what effect the

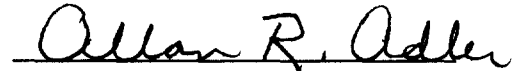


As the providers of AVM products and services struggle to shape the outcome of the FCC rulemaking for proprietary advantage, the FCC should take particular care to maintain its focus on the needs of current and potential users of AVM services. For the Interagency Group and other users of AVM services, the goal of the FCC rulemaking should be to facilitate a regulatory environment that fosters a competitive marketplace in which users will have the ability to select the AVM services and technologies that are best suited to their particular needs. With this goal in mind, the FCC should not act precipitously to change or preordain the direction of current AVM developments before it has completed its rulemaking. Having recognized that other proposals for allocation and the resolution of interference problems may be forthcoming in response to its NPRM, the FCC should not act in anticipation of its own as-yet unknown final determinations on these issues when there is no urgent need to do so.

CONCLUSION

For the reasons stated above, Teletrac's Freeze Request should be denied.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Allan R. Adler". The signature is written in dark ink and is positioned above the typed name and address.

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June 22, 1993

CERTIFICATE OF SERVICE

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